

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2621

AN ACT

AMENDING SECTION 41-2051, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 292, SECTION 8; REPEALING SECTION 41-2122.01, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2051, Arizona Revised Statutes, is amended to read:

~~41-2051.~~ Definitions

In this chapter, unless the context otherwise requires:

1. "Biodiesel" means a diesel fuel substitute THAT IS PRODUCED FROM NONPETROLEUM RENEWABLE RESOURCES AS DEFINED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THAT MEETS THE REGISTRATION REQUIREMENTS FOR FUELS AND FUEL ADDITIVES ESTABLISHED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO SECTION 211 OF THE CLEAN AIR ACT, AS DEFINED IN SECTION 49-401.01. ~~that satisfies all of the following:~~

~~(a) Is produced from nonpetroleum renewable resources if the qualifying volume of nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California code of regulations sections 2281 and 2282 in effect on January 1, 2000.~~

~~(b) Meets the registration requirement for fuels and additives established by the environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.~~

~~(c) The use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.~~

~~(d) Is sold, offered or exposed for sale as a neat product or blended with diesel fuel.~~

2. "BIODIESEL BLEND" MEANS A MOTOR FUEL THAT IS COMPRISED OF BIODIESEL AND DIESEL FUEL AND THAT IS DESIGNATED BY THE LETTER "B", FOLLOWED BY THE NUMERIC VALUE OF THE VOLUME PERCENTAGE OF BIODIESEL IN THE BLEND.

3. "BIOFUEL" MEANS A SOLID, LIQUID OR GASEOUS FUEL THAT IS DERIVED FROM BIOMASS AND THAT CAN BE USED DIRECTLY FOR HEATING OR POWER OR AS A MOTOR FUEL.

4. "BIOFUEL BLEND" MEANS A MOTOR FUEL THAT IS COMPRISED OF A BIOFUEL OTHER THAN ETHANOL OR BIODIESEL, THAT IS COMBINED WITH A PETROLEUM BASED FUEL AND THAT IS DESIGNATED BY THE VOLUME PERCENTAGE OF BIOFUEL IN THE BLEND.

~~2-~~ 5. "Certification" means the process of determining the accuracy of a commercial device to the standards of this state by a registered service representative or the department.

~~3-~~ 6. "Commercial device" means any weighing, measuring, metering or counting device that is used to determine the direct cost of things sold or offered or exposed for sale, or used to establish a fee for service if the cost is based on weight, measure or count, except that it does not include those devices used for in-house packaging, inventory control or law enforcement purposes.

1 ~~4.~~ 7. "Commodity" means any merchandise, product or substance
2 produced or distributed for sale to or use by others.

3 ~~5.~~ 8. "Correct" as used in connection with weights and measures means
4 conformance to all applicable requirements of this chapter.

5 ~~6.~~ 9. "Department" means the department of weights and measures.

6 ~~7.~~ 10. "Diesel FUEL" means a refined middle distillate ~~for use~~ THAT
7 IS USED as a fuel in a compression-ignition internal combustion engine AND
8 THAT MEETS THE SPECIFICATIONS OF ASTM D975.

9 ~~8.~~ 11. "Director" means the director of the department of weights and
10 measures.

11 12. "E85" MEANS A FUEL ETHANOL GASOLINE BLEND THAT MEETS THE
12 SPECIFICATIONS OF ASTM D5798.

13 ~~9.~~ 13. "Inspector" means state officials of the department of weights
14 and measures.

15 ~~10.~~ 14. "Limousine" means a motor vehicle providing prearranged ground
16 transportation service for an individual passenger, or a group of passengers,
17 that is arranged in advance or is operated on a regular route or between
18 specified points and includes ground transportation under a contract or
19 agreement for services that includes a fixed rate or time and is provided in
20 a motor vehicle with a seating capacity not exceeding fifteen passengers,
21 including the driver.

22 ~~11.~~ 15. "Liquid fuel measuring device" means any meter, pump, tank,
23 gauge or apparatus used for volumetrically determining the quantity of any
24 internal combustion engine fuel, liquefied petroleum gas or low viscosity
25 heating oil.

26 ~~12.~~ 16. "Livery vehicle" means a motor vehicle that:

27 (a) Has a seating capacity not exceeding fifteen passengers, including
28 the driver.

29 (b) Provides passenger services for a fare determined by a flat rate
30 or flat hourly rate between geographic zones or within a geographic area.

31 (c) Is available for hire on an exclusive or shared ride basis.

32 (d) May do any of the following:

33 (i) Operate on a regular route or between specified places.

34 (ii) Offer prearranged ground transportation service as defined in
35 section 28-141.

36 (iii) Offer on demand ground transportation service pursuant to a
37 contract with a public airport, licensed business entity or organization.

38 17. "MISFUEL" MEANS THE ACT OF DISPENSING INTO THE FUEL TANK OF A MOTOR
39 VEHICLE A MOTOR FUEL THAT WAS NOT INTENDED TO BE USED IN THE ENGINE OF THAT
40 MOTOR VEHICLE.

41 ~~13.~~ 18. "Motor fuel" means a petroleum or a petroleum based substance
42 that is motor gasoline, aviation gasoline, number one or number two diesel
43 fuel or any grade of oxygenated gasoline typically used in the operation of a
44 motor engine, including biodiesel blends, BIOFUEL BLENDS and the ethanol
45 blend E85 as defined in ASTM ~~D5798-99~~ D5798.

~~14.~~ 19. "Package" means any commodity enclosed in a container or wrapped in any manner in advance of sale in units suitable for either wholesale or retail trade.

~~15.~~ 20. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.

~~16.~~ 21. "Public weighmaster" means any person who is engaged in any of the following:

(a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate intended to be accepted as an accurate weight upon which a purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing for hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

~~17.~~ 22. "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

~~18.~~ 23. "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and that has been issued a license by the department.

~~19.~~ 24. "Registered service representative" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and who has been issued a license by the department.

~~20.~~ 25. "Retail seller" means a person whose business purpose is to sell, expose or offer for sale or use any package or commodity by weight, measure or count.

~~21.~~ 26. "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

~~22.~~ 27. "Secondary standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and that are used in the enforcement of weights and measures laws and rules.

~~23.~~ 28. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:

1 (a) Does not operate on a regular route or between specified places.
2 (b) Offers local transportation for a fare determined primarily on the
3 basis of the distance traveled.

4 ~~24-~~ 29. "Taxi meter" means a commercial device that meets the
5 requirements of the national institute of standards and technology handbook
6 44 as prescribed by section 41-2064.

7 ~~25-~~ 30. "Weight" as used in connection with any commodity means net
8 weight.

9 ~~26-~~ 31. "Weights" or "measures", or both, means all weights, measures,
10 meters or counters of every kind, instruments and devices for weighing,
11 measuring, metering or counting and any appliance and accessories associated
12 with any or all such instruments and devices.

13 Sec. 2. Section 41-2083, Arizona Revised Statutes, as amended by Laws
14 2007, chapter 292, section 8, is amended to read:

15 ~~41-2083.~~ Standards for motor fuel; exceptions

16 A. Except as provided in section 41-2083.01 and subsections C, D, E,
17 F, G, K, ~~AND L, M and N~~ of this section, a retail seller or fleet owner
18 shall not store, sell or expose or offer for sale any motor fuel, kerosene,
19 oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures
20 of lubricants or other similar products if the product fails to meet the
21 standards specified in this section and in the rules adopted by the director.

22 B. A person shall not misrepresent the nature, origination, quality,
23 grade or identity of any product specified in subsection A of this section or
24 represent the nature, origination, quality, grade or identity of such product
25 in any manner calculated or tending to mislead or in any way deceive. **THIS**
26 **SUBSECTION DOES NOT PROHIBIT PRODUCT ORIENTATION DISCLAIMER LABELING ON THE**
27 **RETAIL DISPENSER.**

28 C. After consultation with the director of the department of
29 environmental quality, the standards and test methods for motor fuels shall
30 be established by the director of the department of weights and measures by
31 rule.

32 D. Maximum vapor pressure for gasoline that is supplied or sold by any
33 person and that is intended as a final product for the fueling of motor
34 vehicles in a county with a population of one million two hundred thousand or
35 more persons and any portion of a county contained in area A as defined in
36 section 49-541 shall be 9.0 pounds per square inch from and after September
37 30 through March 31 of each year. Fuel used in motor vehicles at a
38 manufacturer's proving ground or a motor vehicle racing event as defined by
39 section 41-2121 is exempt from this subsection.

40 E. From and after September 30 through March 31 of each year a person
41 shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor
42 pressure/distillation class ten volume per cent evaporated distillation
43 temperature.

1 F. Maximum vapor pressure for gasoline that is supplied or sold by any
2 person and that is intended as a final product for the fueling of motor
3 vehicles in a county with a population of one million two hundred thousand
4 persons or more and any portion of a county contained in area A as defined in
5 section 49-541 shall be 7.0 pounds per square inch from and after May 31
6 through September 30 of each year. Fuel used in motor vehicles at a
7 manufacturer's proving ground or a motor vehicle racing event as defined by
8 section 41-2121 is exempt from this subsection.

9 G. Exclusively for the purposes of transportation conformity and only
10 if the administrator of the United States environmental protection agency
11 fails to approve the applicable plan required pursuant to section 49-406,
12 maximum vapor pressure for gasoline that is supplied or sold by any person
13 and that is intended as a final product for the fueling of motor vehicles in
14 area B as defined in section 49-541 shall be ten pounds per square inch from
15 and after September 30 through March 31 of each year. Fuel used in motor
16 vehicles at a manufacturer's proving ground or a motor vehicle racing event
17 as defined by section 41-2121 is exempt from this subsection.

18 H. Notwithstanding subsections D, F and G of this section, the
19 director of the department of weights and measures in consultation with the
20 director of the department of environmental quality shall approve alternate
21 fuel control measures that are submitted by manufacturers or suppliers of
22 gasoline and that the directors determine will result in either of the
23 following:

24 1. Motor vehicle carbon monoxide emissions that are equal to or less
25 than emissions that result under compliance with subsection D of this section
26 and section 41-2123. In making this determination, the director of the
27 department of weights and measures and the director of the department of
28 environmental quality shall compare the emissions of the alternate fuel
29 control measure with the emissions of a fuel with a maximum vapor pressure
30 standard as prescribed by this section and with the minimum oxygen content or
31 percentage by volume of ethanol as prescribed by section 41-2123.

32 2. Motor vehicle non-methane hydrocarbon emissions that are equal to
33 or less than the emissions that result under compliance with subsection F of
34 this section. In making this determination, the director of the department
35 of weights and measures and the director of the department of environmental
36 quality shall compare the motor vehicle non-methane hydrocarbon emissions of
37 the alternate fuel control measure with the motor vehicle non-methane
38 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure
39 standard as prescribed by subsection F of this section.

40 I. Any alternate fuel control measures that are approved shall not
41 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
42 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
43 subsection H of this section and this subsection may be used by any
44 manufacturer or supplier of gasoline unless the approval is rescinded more
45 than one hundred eighty days before the first day of a gasoline control

1 period. Manufacturers and suppliers who use an approved alternate fuel
2 control measure shall annually submit a compliance plan to the director of
3 the department of weights and measures no later than sixty days before the
4 first day of a gasoline control period.

5 J. A person shall not sell or offer or expose for sale diesel fuel
6 grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:

7 1. For low sulfur diesel fuel, five hundred parts per million by
8 weight for use in area A as defined in section 49-541.

9 2. For ultra low sulfur diesel fuel, the amount that conforms with 40
10 Code of Federal Regulations section 80.520(a)(1).

11 K. A person shall not sell or offer or expose for sale **DIESEL FUEL OR**
12 **biodiesel BLENDS** ~~that is not tested or does not meet the specifications~~
13 ~~established by ASTM D6751 or any blend of biodiesel and diesel fuel that is~~
14 ~~not tested or does not meet the specifications established by ASTM D975 and~~
15 that ~~contains~~ **CONTAIN** sulfur in excess of five hundred parts per million for
16 use in area A as defined in section 49-541.

17 ~~L. A person that blends biodiesel that is intended as a final product~~
18 ~~for the fueling of motor vehicles shall report to the director by the~~
19 ~~fifteenth day of each month the quantity and quality of biodiesel shipped to~~
20 ~~or produced in this state during the preceding month. A person who supplies~~
21 ~~biodiesel subject to this subsection shall report the following by batch:~~

22 ~~1. The percentage of biodiesel in a final blend.~~

23 ~~2. The volume of the finished product.~~

24 ~~3. For neat biodiesel, the results of analysis for those parameters~~
25 ~~established by ASTM D6751.~~

26 ~~4. For biodiesel blended with any diesel fuel, the results of the~~
27 ~~analysis of the following motor fuel parameters as established by ASTM D975:~~

28 ~~(a) Sulfur content.~~

29 ~~(b) Aromatic hydrocarbon content.~~

30 ~~(c) Cetane number.~~

31 ~~(d) Specific gravity.~~

32 ~~(e) American petroleum institute gravity.~~

33 ~~(f) The temperatures at which ten per cent, fifty per cent and ninety~~
34 ~~per cent of the diesel fuel boiled off during distillation.~~

35 ~~M. The report required by subsection L of this section shall be on a~~
36 ~~form prescribed by the director and shall contain a certification of~~
37 ~~truthfulness and accuracy of the data submitted and a statement of the~~
38 ~~supplier's consent permitting the department or its authorized agent to~~
39 ~~collect samples and access records as provided in rules adopted by the~~
40 ~~department. A corporate officer who is responsible for operations at the~~
41 ~~facility that produces or ships the final product shall sign the report.~~

42 **N. L. EXCEPT FOR BIODIESEL BLENDS THAT CONTAIN UP TO FIVE PER CENT**
43 **BIODIESEL**, a person shall label dispensers at which biodiesel ~~is~~ **OR BLENDS OF**
44 **DIESEL FUEL AND BIODIESEL ARE** dispensed in such a manner as to notify other
45 persons of the volume percentage of biodiesel in the finished product and

1 that conforms with 40 Code of Federal Regulations sections 80.570, 80.571,
2 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the
3 diesel fuel being dispensed. FOR BIODIESEL BLENDS THAT CONTAIN UP TO FIVE
4 PER CENT BIODIESEL, THE LABEL ON THE DISPENSER SHALL STATE "MAY CONTAIN UP TO
5 FIVE PER CENT BIODIESEL".

6 M. A PERSON SHALL PREPARE THE PRODUCT TRANSFER DOCUMENTS IN A MANNER
7 THAT NOTIFIES THE TRANSFEREE OF THE PERCENTAGE OF BIODIESEL IN THE FINISHED
8 PRODUCT.

9 N. THE DIRECTOR SHALL ADOPT RULES REGARDING THE ESTABLISHMENT AND
10 ENFORCEMENT OF ALL OF THE FOLLOWING:

11 1. NATIONAL OR FEDERAL STANDARDS FOR INDIVIDUAL BIOFUELS AND BIOFUEL
12 BLENDS.

13 2. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND ASTM TEST METHODS
14 FOR INDIVIDUAL BIOFUELS AND BIOFUEL BLENDS.

15 3. REGISTRATION AND REPORTING REQUIREMENTS FOR PRODUCERS, BLENDEES AND
16 SUPPLIERS OF BIOFUELS AND BIOFUEL BLENDS.

17 4. LABELING REQUIREMENTS FOR BIOFUELS AND BIOFUEL BLENDS OTHER THAN
18 BIODIESEL.

19 5. QUALITY ASSURANCE AND QUALITY CONTROL PROGRAMS FOR PRODUCERS,
20 BLENDEES AND SUPPLIERS OF BIOFUELS AND BIOFUEL BLENDS ADDRESSING RACK, BATCH
21 OR OTHER BLENDING.

22 6. REQUIREMENTS THAT THE DISPENSING EQUIPMENT MEET APPROPRIATE
23 UL RATINGS WHERE AVAILABLE AND APPLICABLE, THAT THE EQUIPMENT COMPLY WITH
24 RULES ADOPTED BY THE DEPARTMENT RELATING TO APPROVAL, INSTALLATION AND SALE
25 OF DEVICES AND THAT THE EQUIPMENT BE COMPATIBLE WITH THE PRODUCTS BEING
26 DISPENSED.

27 O. A BIOFUELS OR BIOFUEL BLENDS PRODUCER, BLENDER, DISTRIBUTOR,
28 SUPPLIER OR RETAIL SELLER THAT IS IN COMPLIANCE WITH THIS SECTION AND THE
29 RULES ADOPTED PURSUANT TO THIS SECTION IS NOT LIABLE TO A CONSUMER FOR ANY
30 INJURIES OR PROPERTY DAMAGE RELATED TO A CONSUMER WHO MISFUELS.

31 ~~Q.~~ P. A person shall label each dispenser at which ultra low sulfur
32 diesel fuel is dispensed in a manner that conforms with 40 Code of Federal
33 Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the
34 customer of the sulfur content of the diesel fuel being dispensed.

35 ~~P.~~ Q. A person shall label each dispenser at which low sulfur diesel
36 fuel is dispensed in a manner that conforms with 40 Code of Federal
37 Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the
38 customer of the sulfur content of the diesel fuel being dispensed.

39 ~~Q.~~ R. If any person transfers custody or title of a diesel fuel or
40 distillate, except if the diesel fuel is dispensed into a motor vehicle or
41 nonroad, locomotive or marine equipment, the transferor shall provide to the
42 transferee product transfer documents that conform with 40 Code of Federal
43 Regulations section 80.590.

1 ~~R.~~ S. If the transfer of a motor fuel is from a terminal, storage
2 facility, or transmix facility, the product transfer documents shall contain
3 the information prescribed in subsection Q of this section as well as the
4 name and address of the final destination for the shipment, as prescribed by
5 department rule, and must accompany the shipment to its final destination.
6 Sec. 3. Repeal
7 Section 41-2122.01, Arizona Revised Statutes, is repealed.